

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA

JOHN REGINALD POWELL,	)	
	)	
Petitioner,	)	
	)	
vs.	)	No. CIV-21-315-C
	)	
JIM FARRIS, Warden	)	
	)	
Respondent.	)	

**ORDER**

Petitioner has filed an application to proceed in forma pauperis on appeal. Although 28 U.S.C. § 1915(b) does not apply to habeas actions, see McIntosh v. United States Parole Comm’n, 115 F.3d 809, 812 (10th Cir. 1997) (holding Prison Litigation Reform Act inapplicable to habeas and § 2255 actions and appeals), both § 1915(a)(1) and (a)(3) do apply to a habeas appeal. Accordingly, a petitioner must show that the appeal is taken in good faith and that he lacks the financial ability to pay the required fees. See id.

Having reviewed the motion, Judge Mitchell’s Report and Recommendation and Petitioner’s Objection, the Court finds that Petitioner has not presented a reasoned, nonfrivolous argument on appeal and that the appeal is not taken in good faith. Thus, he is not entitled to prosecute his appeal without payment of the filing and docketing fees.

As set forth more fully herein, the Report and Recommendation (Dkt. No. 25) is ADOPTED in full. Petitioner’s Motion for Leave to Proceed in Forma Pauperis (Dkt. No. 23) is DENIED. Petitioner is advised that unless the \$5.00 appellate filing fee and the

\$500.00 docket fee are paid in full to the Clerk of this Court within 20 days of the date of this Order, the action may be subject to dismissal by the appellate court.

IT IS SO ORDERED this 22nd day of September, 2021.

  
ROBIN J. CAUTHRON  
United States District Judge